

CIVIL DOCKET

69-C-183

UNITED STATES DISTRICT COURT

Jury demand date: 7-28-69 by plaintiff in complaint

D. C. Form No. 106A Rev.

8

TITLE OF CASE		ATTORNEYS			
Black, Sivalis & Bryson, Inc. a corporation vs National Tank Company, a corporation		For plaintiff: Dunlap, Laney, Hessin & Dougherty 219 Couch Drive Oklahoma City, Okla Lyon & Lyon James W. Geriak Douglas E. Olson 800 Wilshire Blvd, 9th Floor Los Angeles 17, Cal. Madison 4-3901 (as of 3-8-72) 90017 Tele. (213) 489 1600			
		For defendant: Baker, Botts, Shepherd & Coates 1600 Esperson Building Houston, Texas 77002 Check, Check & Check 600 Local Federal Building Oklahoma City, Okla Arthur L. Wade P. O. Box 1710 743- Tulsa, Oklahoma 74101 7861			
STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 5 mailed 8-1 10-1-71	Clerk	9-17-70	Dunlap	5 00	
		9-24	C.D.No. 14		5 00
		10-1-70	Natl Tank	5 00	
J.S. 6 mailed 10-1-70 10-1-72	Marshal	10-8	C.D.No. 17		5 00
Basis of Action: Patent infringement	Docket fee				
	Witness fees				
Action arose at: Okla City	Depositions				

DATE	PROCEEDINGS	Date Order or Judgment Noted
7-28-69	Case transferred from Western District of Oklahoma to Northern District of Oklahoma, and transcript filed. ds	
7-28-69	Defendant's answer and counterclaim, filed. ds	
7-28-69	Depositions of Joseph R. Campbell and Bill G. Martin, filed. (Fees: \$42.00 paid by pltf.)m	
7-28-69	Depositions of Joe Notley and Bill B. Ward, filed. (Fees: \$57.70 paid by pltf.)m	
8-6-69	Plaintiff's Reply to defendant's counterclaim, filed. ds	
8-14-69	Plaintiff's third interrogatories to deft., filed. m	
8-27-69	Defendant's answers to plaintiff's third interrogatories, filed. ds	
9-2-69	Defendant's first set of interrogatories to pltf., filed. m	
9-26-69	Plaintiff's Answers to defendants First interrogatories 1 thru 63, filed. ds	
10-10-69	Deposition of Bill G. Martin, filed. (Costs \$62.00). js	
11-5-69	Minute Order: Parties directed to hold pre-trial and file pre-trial order not later than 12-8-69.(AEB-J)h	
11-12-69	Deposition of Robert E. McMinn, for defendant, taken on 10-1-69, by Frank L. Peterson, CSR, filed. (\$178.00) ds	
11-13-69	Ordered that parties are granted an extension of time of 45 days from 12-8-69 in which to prepare and file pre-trial order. (AEB-J)m	
11-28-69	Defendant's notice to plaintiff for inspection and copying of documents, filed. m	
1-5-70	Depositions of George P. Lowry and Charles Smalling, taken on behalf of defendant, before Hayden Addington, CSR, Oklahoma City, Oklahoma. Defendant's fees, \$706.25. ds	
1-22-70	Pre-trial order, filed. (Allen E. Barrow, Judge) b	
1-29-70	Plaintiff's corrected answers to defendants firstinterrogatories 1,2, 5,24 & 25, filed. m	
2-12-70	Defendant's motion to dismiss plaintiff's cause of action alleging misappropriation of trade secrets for lack of jurisdiction, filed. b	
2-12-70	Defendant's brief in support of its motion to dismiss plaintiff's cause of action alleging misappropriation of trade secrets for lack of jurisdiction, filed. b	
2-12-70	Defendant's motion for summary judgment pursuant to Rule 56 FRCP, filed. b	
2-12-70	Defendant's brief in support of its motion for summary judgment, filed. b	
2-12-70	Defendant's exhibits in support of motion for S/J, filed. b	
2-13-70	Ordered by the Court that the plaintiff respond with briefs to the defendant's motion to dismiss action alleging misappropriation of trade secrets for lack of jurisdiction; and defendant's motion for summary judgment pursuant to Rule 56, FRCP, within 10 days. (Allen E. Barrow - Judge) b	
2-25-70	Plaintiff's brief in opposition to defendant's motion to dismiss plaintiff's cause of action for unfair competition for lack of jurisdiction, filed. ds	
2-25-70	Plaintiff's brief in opposition to defendant's motion for summary judgment, filed. ds	
2-25-70	Affidavit of Robert E. McMinn, filed. ds	
2-27-70	Ordered that deft. be granted 10 days from 2-25-70 to file reply briefs. (AEB-J)m	
3-6-70	Defendant's reply brief directed to the issue of the court's jurisdiction over plaintiff's claim of misappropriation of trade secrets, filed. ds	

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DATE	PROCEEDINGS	Date Order or Judgment Noted
3-6-70	Defendant's reply to pltf's brief in opposition to deft's motion for summary judgment, filed. m	
3-16-70	Deposition of Ralph Meredith Roberts, filed. (Fees: \$57.20 pd by deft.)m	
5-13-70	Case called for hearing on motions, and defendant's motion to dismiss plaintiff's cause of action alleging misappropriation of trade secrets for lack of jurisdiction and defendant's motion for summary judgment pursuant to Rule 56 FRCP passed pending the Court viewing Certain burners.(AEB-J)	
7-31-70	It is ordered by the court that the attorneys in the case filed Findings of Fact and Proposed Conslusions of Law not later than August 15, 1970. (AEB-J).	
8-12-70	Suggested finding of undisputed facts and suggested conclusions of law in connection with the consideration of Deft's Motion for Summary Judgment, filed. v	
8-14-70	Plaintiff's proposed Findings of Fact and Conclusions of Law, filed. b	
8-24-70	Findings of Fact and Conclusions of Law filed, and plaintiff directed to prepare and file with the Court a Judgment in Conformity with FFandC/L within 5 days from this date.(AEB-J)h	
9-1-70	Final judgment, filed and entered, that Natl. Tank CHF Heaters do not infringe Claim 1 of U.S. Letters Patent No. 2,993,479; that Claim 1 of U.S. Letters Patent No. 2,993,479 is invalid and void; that pltf's cause of action for unfair competition &/or misappropriation of trade secrets is dismissed for lack of jurisdiction; that no attorneys' fees be awarded & costs be taxed & shared equally; and that this judgment shall constitute a final judgment as to pltf's original cause and as to deft's counterclaim for declaratory judgment of non-infringement & invalidity. (AEB-J)m (copies mailed)	
9-17-70	Notice of appeal by plaintiff, filed. copy to counsel and to USCA. g	
9-17-70	Bond for costs on appeal, filed. g	
9-28-70	Notice of cross appeal by defendant, filed. cpy to counsel and to	
10-1-70	USCA. g	
10-1-70	Cost Bond for appeal, filed by National Tank Company, \$250.00 cash deposited in Registry of Court. b	
10-20-70	Appeal record in 2 vols. (orig. + 3 cpies) sent to USCA. g	
9-7-71	Plaintiff's motion for modification of pre-trial order received, but not filed, pending receipt of mandate in case. pleadings placed in file. ds FILED 9-15-71	
9-10-71	Objection to plaintiff's motion for modification of pretrial order received, but not filed, pending receipt of mandate in case. Pleadings placed in filed. ds FILED 9-15-71	
9-15-71	Mandate and Opinion of USCA reversing judgment of 9-1-70, and remanding cause for trial on all issues, filed and spread of record. g	
9-16-71	CC of Order of USCA allowing appellant (pltf.) costs in amt. of \$1226.50, filed. g	
9-17-71	Reply to deft's objection to pltf's motion for modification of pre-trial order, filed. m	
9-20-71	Bill of costs, filed. To be taxed at 11:00 A.M. Friday, Sept. 24, 1971 ds	
10-28-71	Costs taxed in the amount of \$1,465.50 against National Tank Company, John H. Poe, Clerk.	
10-27-71	Order by court that Magistrate hear Plaintiff's motion for modification of pre-trial order and Objection to Pltf.'s Motion for Modification of pre-trial order. (AEB-J)v	

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DATE	PROCEEDINGS	Date Order or Judgment Noted
10-27-71	This motion having been referred to the United States Magistrate for hearing and recommendation, the United States Magistrate recommends that Plaintiff's Motion for modification of Pre-trial order by granted---the amendment to include claims Seven (7) and Eight (8) of concerned patent. Plaintiff's Attorney to prepare the order. Plaintiff represented by Mr. Dougherty and the Deft. represented by Ronald Palmer. (MLB-U.S.Mag.)v	
11-4-71	Order modifying pre-trial order, filed. (Bradford-Magistrate)g	
11-4-71	Order approving findings and recommendations of Magistrate, filed. (AEB-J)g	
11-17-71	Case set for Non-Jury trial Monday 12-6-71 at 10:00 am.(AEB-J)h	
11-19-71	Case stricken from non-jury assignment of 12-6-71, to be reset for jury trial. (AEB-J)m	
12-1-71	Application for letters rogatory, filed by Deft. Nat'l Tank, filed. r	
12-2-71	Order, filed, granting issuance of letters rogatory. (AEB-J)m (copies mailed with letter)	
12-2-71	Letters rogatory, filed. (AEB-J; JHP-Clerk)m (3 copies mailed to Baker & Botts)	
12-8-71	Plaintiff's Motion for Protective Order Relating to Defendant's taking the defendant's taking the deposition of John Thurley under letters Rogatory filed. h	
12-8-71	Plaintiff's Brief in support of its motion for protective order relating to Def's taking the deposition of John Thurley under letters Rogatory filed.	
12-8-71	It is ordered that defendant granted 10 days to respond to motion for protective order, etc. h <i>letter to attorney</i>	
12-17-71	Objection to pltf's motion for protective order relating to def't's taking the deposition of John Thurley under letters rogatory, filed.m	
12-29-71	Reply to Def.'s Objection to Pltf. Motion for Protective Order Relating to Def. Taking the Deposition of John Thurley, filed. rm	
1-20-72	Motion to strike trial setting or, in the alternative, motion for continuance, filed. ds <i>Order to grant</i>	
1-20-72	Order, that this case be stricken and continued from the 1-14-72 trial setting, filed. (AEB-J) ds copies mailed.	
1-21-72	Case set for Jury Trial on Monday 2-14-72, at 9:30 A.M. (AEB-J)v	
2-2-72	Notice to take deposition by defendant, filed. ds	
2-15-72	Ordered that Magistrate conduct hearing on pltf's motion for protective order relating to def't's taking deposition of John Thurley under letters rogatory. (AEB-J)hm	
2-15-72	Hearing held on above pltf's motion. It is recommended that pltf's motion for protective order relating to def't's taking deposition of John Thurley under letters rogatory is denied. Deft. to prepare recommendation & order within 5 days. (MLB-Mag)hm	
2-28-72	Findings and Recommendations of Magistrate that pltf.'s mo. for protective order be denied. (MLB-Mag.) rm (copies mailed)	
2-28-72	Order denying pltf. mo. for protective order. (AEB-J) rm (copies mailed)	
3-8-72	Notice of appearance of counsel for attorneys, filed. ds	
4-17-72	Notice by def. pursuant to 35 U.S.C. 282, filed. rm	
4-24-72	Case set for jury trial on Monday, 5/22/72 at 9:30 a.m. (AEB-J) rm	
4-28-72	Defendant's supplemental pretrial information, filed. ds	
5-3-72	Stipulation for continuation of jury trial and order granting continuation of trial to next jury docket, filed. (AEB-J)hm (copies mailed)	

BARROW

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DATE	PROCEEDINGS	Date Order or Judgment Noted
6-2-72 6-26-72	Transcript of hearing before Magistrate on Feb. 15, 1972, filed.g(Answers to letters rogatory, filed. hm	
8-14-72	Notice of change of address and telephone number of Lyon & Lyon, attorneys for Black, Sivalis and Bryson, Inc. filed. ds	
9-8-72	Case set for Jury Trial on Monday, Sept. 25, 1972 at 10:00 am.(AEB-J)h	
9-19-72	It is adjudged that this case is stricken from jury docket of 9-25-72 pending settlement.(AEB-J)h <i>noted mailed h</i>	
9-27-72	Consent judgment, filed and entered, that complaint & all counter- claims are dismissed with prejudice & each party to pay its own costs. (AEB-J)hm (copies mailed)(Dougherty & Wade)	
7-19-73	Petition for refund of cash appeal bond and order allowing filed. It is ordered that the \$250.00 cash appeal bond be returned to National Tank Co., P.O. Box 1710, Tulsa, Okla. 74101.)(AEB-J)h <i>Copies mailed</i>	
7-27-73	Order of Disbursement of Appeal Bond, filed. (AEB-J)r (Copies mailed)	

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